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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,332	11/08/2006	Alain Molinie	0565-1028	5670

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

EXAMINER

SURVILLO, OLEG

ART UNIT	PAPER NUMBER
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2442

NOTIFICATION DATE	DELIVERY MODE
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06/04/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/580,332	Applicant(s) MOLINIE ET AL.	
	Examiner OLEG SURVILLO	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/24/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use. Even though applicants are not required to include these section headings in the specification, such inclusion would enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the relevant sections of the specification. The following section headings are suggested, as provided in 37 CFR 1.77(b):

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(d) BRIEF SUMMARY OF THE INVENTION.

(e) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(f) DETAILED DESCRIPTION OF THE INVENTION.

Drawings

2. The drawings are objected to because Figure 1 is missing descriptive legends. Except for the remote control (170) that is clearly identifiable by the figure, Figure 1 contains a plurality of boxes having no descriptive legends making it impossible to understand the drawing. See 37 CFR 1.84(o). Corrected drawing sheets in compliance

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with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character not mentioned in the description: 211 at Figs. 2A and 2B. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 40-42 recite the limitation "the step of selection" in the claim body. There is insufficient antecedent basis for this limitation in the claim. In particular, claim 30, from which claims 40-42 depend, fails to present a step of selection/selecting.

6. Claims 42-56, and 65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 42 and 56, it is unclear what constitutes "the most direct access". As known in the art, a "direct access" is direct by definition. It is unclear how can a degree of "directness" be established. The specification is silent in defining or explaining how the degree of "directness" is determined and meaning of claimed term cannot be established based on plain meaning of "the most direct access".

As to claim 43, the preamble is ambiguous because it is unclear whether device for exchanging data between devices is part of each of those devices, that is, device comprising another device that in turn comprises recited means or the recited means are implemented in each of the devices that exchange data. Applicants are advised to amend the preamble by having the claim be directed to a system having at least two devices for exchanging data, the devices linked by a network, each of said devices comprising: (body of the claim).

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As to claim 43, claim elements “a means of search” “a means of transmitting” and “a means of aggregating” are a means (or step) plus function limitations that invoke 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. Specification broadly states that all the devices “have a software system utilizing the data exchange process that is the subject of the present invention” (see page 9 lines 35-37) suggesting that corresponding structure performing each of searching, transmitting and aggregating is “software”, wherein claim 1 states that steps of searching, transmitting, and aggregating are performed by a device itself, suggesting that corresponding structure is any one of server 125, television 130, music system 155, video signal decoder 157, and film player 160, which is ambiguous because claimed means are comprised in those devices that exchange data, as claimed, therefore preventing devices themselves to correspond to the claimed means recitations.

Applicant is required to:

(a) Amend claim 43 so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Applicant is reminded that each means recitation must correspond to different structure in order to justify having multiple means recitations. Such that, if only one structural element is disclosed in the specification, there is no basis for having multiple means in the claim.

Claims 43-56 and 65 are rejected as being dependent from corresponding independent claim rejected under 35 USC 112, second paragraph.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 29-37, 40, 42-51, 54, and 56-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Baudino et al. (US 2006/0123081 A1).

As to claim 29, Baudino teaches:

a step of searching, by each of at least two devices [each device collecting data over time independently from each other] (par. [0026]), for at least one media type representing at least one type of physical entity [user's favorites/preferences in terms of listing of movies, songs, web sites, etc.] (par. [0026]), directly accessible by said device [each device is collecting data pertaining to user's direct interaction with the device] (par. [0026], [0035], [0036]);

a step of transmitting, by each device having carried out said searching step to at least one other device capable of handling said media type [exchanging the collected data between devices over wireless LAN or other wireless network] (par. [0026], [0034]), a list representing media found on said devices during the search step (par. [0035]-[0038]); and

a step of aggregating, by each device having carried out said search step, lists of media found and/or received independent of the device where said media are located [creating a common user profile based on exchanged data] (par. [0005], Fig. 3).

As to claim 30, Baudino teaches that during the aggregation step, the aggregated lists are organized by physical entity (par. [0030], Fig. 6).

As to claim 31, Baudino teaches that during the aggregation step, the aggregated lists are organized by media type (par. [0035]-[0038]; Fig. 6).

As to claim 32, Baudino teaches that during the search step, media subject to a broadcast limitation or ban are not taken into account (par. [0046]-[0047]).

As to claim 33, Baudino teaches that during the aggregation step the aggregated list comprises, for each medium, a pointer representing the localization of said medium on the network (par. [0035]-[0036], Fig. 6).

As to claim 34, Baudino teaches that during the aggregation step the aggregated list comprises, for each medium, an interface capable of handling said medium (par. [0035]-[0036], Fig. 6).

As to claim 35, Baudino teaches a step of selecting a media output device (par. [0048]).

As to claim 36, Baudino teaches a step of selecting, for at least one media output device, a medium represented in the aggregated list (par. [0048]).

As to claim 37, Baudino teaches that step of selecting a medium comprises a step of selection by a hand-held remote control (par. [0048] teaches interaction between two devices, wherein one of the devices is a remote control depicted in Fig. 1, par. [0026]).

As to claim 40, Baudino teaches a hand-held remote control [one of exemplifications of a home mobile device (25)] (par. [0026], Fig. 1). Baudino further teaches that a request is output for each device in the remote control's range to provide a response identifying it (par. [0040], Fig. 3).

As to claim 42, Baudino teaches that the device giving the most direct access to the selected medium [device in proximity] transmits said medium to the device selected to output said medium (par. [0033]).

As to claim 43, Baudino teaches that the functionality of searching, transmitting, and aggregating, as discussed per claim 29, is implemented in software (par. [0049]). Therefore, Baudino teaches a means for searching, a means for transmitting, and a means for aggregating (par. [0049]).

As to claims 44-51, Baudino teaches all the elements as discussed per corresponding method claims 30-37.

As to claim 54, Baudino teaches all the elements as discussed per claim 40.

As to claim 56, Baudino teaches all the elements as discussed per claim 42.

As to claim 57, Baudino teaches a step of determining at least one environment parameter for the remote control (par. [0026]), and
a step of auto-configuring the provisioning of functions and/or media to the remote control's user (par. [0048]).

As to claim 58, Baudino teaches that in the course of the step determining at least one environment parameter for the remote control, the person using the remote control is ascertained (par. [0026], [0048], Fig. 1).

As to claim 59, Baudino teaches that in the course of the step determining at least one environment parameter for the remote control, the equipment capable of being remotely controlled is ascertained [device capability interchange] (par. [0040]).

As to claim 60, Baudino teaches that in the course of the step determining at least one environment parameter for the remote control, the media available are ascertained (par. [0026], [0048]).

As to claim 61, Baudino teaches that in the course of the step determining at least one environmental parameter for the remote control, the position in space of the equipment capable of being remotely controlled is ascertained [proximity] (par. [0026], [0040], [0048]).

As to claim 62, Baudino teaches that in the course of the step determining at least one environmental parameter for the remote control, the time is ascertained [once devices are in predetermined proximity] (par. [0026], [0040], [0048]).

As to claim 63, Baudino teaches that in the course of the step determining at least one environmental parameter for the remote control, the availability of functions for equipment utilizing a communications protocol with the remote control is ascertained [capabilities interchange] (par. [0026], [0040], [0048]).

As to claim 64, Baudino teaches that in the course of the step of auto-configuring, the provisioning of functions or media to the remote control's user, the functions and/or media to which access is authorized and/or available are activated, according to each environment parameter determined during the step of determining at least one environmental parameter for the remote control [reading/writing only the data that is applicable to the device in question] (par. [0034]).

As to claim 65, Baudino teaches all the elements, as discussed per claim 57.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 38, 41, 52, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baudino et al. in view of Chin et al. (US 2003/0137605 A1).

As to claims 38 and 52, Baudino teaches all the elements except for optical signals and radio signals being output by said remote control during the step of selection.

Chin teaches a hand-held remote control that outputs optical and radio signals during operation (par. [0027], Fig. 3).

It would have been obvious to one of ordinary skill in the art to modify the process of Baudino by having the remote control (25) of Baudino output optical and radio signals during the step of selection via said remote control in order to allow remote control interact with other devices in proximity, a capability of a hand-held remote control that is notoriously old and well known in the art.

As to claims 41 and 55, Baudino teaches all the elements except for the hand-held remote control to utilize arrow keys and a confirmation key.

Chin teaches a hand-held remote control that utilizes arrow keys and a confirmation key (par. [0008], [0030], Fig. 3).

It would have been obvious to one of ordinary skill in the art to modify the process of Baudino by having the remote control (25) of Baudino utilize arrow keys and a confirmation key in order to interact with other devices in proximity, a capability of a hand-held remote control that is notoriously old and well known in the art.

11. Claims 39 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baudino et al. in view of O'Donnell et al. (US 2005/0097594 A1) and in further view of Case, JR. et al. (US 2006/0136173 A1).

As to claims 39 and 53, Baudino teaches all the elements except for having a remote control that displays three-dimensional images representing devices capable of outputting at least one media type.

O'Donnell teaches a remote control having display, the display displaying images representing objects that are being controlled by the remote device (abstract, Figs. 1, 3, and 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Baudino by having the remote control (as on the devices) having a display that displays images representing devices capable of outputting at least one media type (devices in proximity that the remote control interacts with) in order to visually present information to the user regarding objects that the remote control is overseeing or interacting with.

Baudino in view of O'Donnell does not expressly teach that images are three-dimensional images.

Case teaches that displayed images are three-dimensional (par. [0121], Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Baudino in view of O'Donnell by having images being three-dimensional in order to generally show details of objects that the remote control interacts with that otherwise would be difficult to visually describe.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLEG SURVILLO whose telephone number is (571)272-9691. The examiner can normally be reached on M-Th 9:30am - 7:00pm; F 10:00am - 6:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Lee can be reached on 571-272-3967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Oleg Survillo
Phone: 571-272-9691

/Philip C Lee/
Acting Supervisory Patent
Examiner, Art Unit 2442